MONTANA LEGISLATIVE HISTORY

Chapter 69 19 97

Bill H 321 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Feb 04	✓ C	Hearing Date(s)	Feb 20	✓ C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

HB 320 INTRODUCED BY ANDERSON, ET AL. *LC1121 DRAFTER: KURTZ*

CLARIFY THE COSTS FOR WHICH THE DEPARTMENT OF TRANSPORTATION IS RESPONSIBLE WHEN HIGHWAY CONSTRUCTION REQUIRES UTILITY RELOCATION

1/22	INTRODUCED		
1/22	FIRST READING		
1/22	REFERRED TO TRANSPORTATION		
1/22	FISCAL NOTE REQUESTED		
1/28	FISCAL NOTE RECEIVED		
1/30	FISCAL NOTE PRINTED		
1/31	HEARING		
2/03	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/06	2ND READING PASSED	97	2
2/07	3RD READING PASSED	98	2
	TRANSMITTED TO SENATE		
2/08	FIRST READING		
2/08	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/06	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
3/14	2ND READING CONCURRED AS AMENDED	49	0
3/15	3RD READING CONCURRED	47	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	95	3
4/11	3RD READING CONCURRED AS AMENDED	96	0
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 324		
	EFFECTIVE DATE: 04/21/97		

HB 321 INTRODUCED BY MCCULLOCH, ET AL. *LC1049 DRAFTER: LANE*

MAKE IT AN OFFENSE TO OBSTRUCT A PERSON SERVING PROCESS

1/22	INTRODUCED		
1/22	FIRST READING		
1/22	REFERRED TO JUDICIARY		
2/04	HEARING		
2/05	COMMITTEE REPORT—BILL PASSED		
2/06	2ND READING PASSED	77	22
2/07	3RD READING PASSED	73	27
	TRANSMITTED TO SENATE		
2/08	FIRST READING		
2/08	REFERRED TO JUDICIARY		
2/20	HEARING		
2/20	COMMITTEE REPORT—BILL CONCURRED		
3/06	2ND READING CONCURRED	50	0
3/07	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/12	SIGNED BY SPEAKER		
3/13	SIGNED BY PRESIDENT		
3/13	TRANSMITTED TO GOVERNOR		
3/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 69		
	EFFECTIVE DATE: 03/17/97		

House BILL NO. 321

INTRODUCED BY McCulloch Barnett Malcom

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING IT AN OFFENSE TO OBSTRUCT A PERSON SERVING PROCESS; AMENDING SECTION 45-7-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Person serving process -- penalty for obstruction.** A process server registered under chapter 1, part 11, a licensed attorney, or a sheriff, constable, coroner, elisor, or other government employee who is acting in the course of the person's employment while serving process is a public servant for the purpose of determining the offense of obstructing a public servant as provided in 45-7-302. A person who obstructs a person serving process is guilty of obstruction of a public servant and is punishable as provided in 45-7-302.

Section 2. Section 45-7-302, MCA, is amended to read:

"45-7-302. Obstructing a peace officer or other public servant. (1) A person commits the offense of obstructing a peace officer or public servant if ~~he~~ the person knowingly obstructs, impairs, or hinders the enforcement of the criminal law, the preservation of the peace, or the performance of a governmental function, including service of process.

(2) It is no defense to a prosecution under this section that the peace officer was acting in an illegal manner, provided that ~~he~~ the peace officer was acting under ~~color of his~~ the peace officer's official authority.

(3) A person convicted of the offense of obstructing a peace officer or other public servant, including a person serving process, shall be fined not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 25, chapter 3, part 1, and the provisions of Title 25, chapter 3, part 1, apply to [section 1].

HB321

INTRODUCED BILL

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

-END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on February 4, 1997, at 7:00 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Members Excused: Rep. Boharski excused until 8:00 AM.

Members Absent: Reps. Smith and Molnar absent until 8:00 AM.

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted:	SB 36, HB 222	POSTED 1/22/97
	HB 321, HB 339	POSTED 1/28/97
Executive Action:	SB 36	BE CONCURRED IN
	HB 268	DO PASS
	HB 321	DO PASS
	HB 44	DO PASS AS AMENDED
	HB 68	DO PASS AS AMENDED
	HB 339	DO PASS AS AMENDED
	HB 273	TABLE

SHARON HOFF, Montana Catholic Conference
{Tape: 2; Side: B; Approx. Time Count: 11.7}

RUSSELL HILL, Montana Trial Lawyers Association
{Tape: 2; Side: B; Approx. Time Count: 14.1}

SCOTT CRICHTON, ACLU **EXHIBIT 7**
{Tape: 2; Side: B; Approx. Time Count: 16.8}

Questions From Committee Members and Responses:
{Tape: 2; Side: B; Approx. Time Count: 20.0 - Tape 3; Side A; 34.6}

Closing by Sponsor: **REP. ANDERSON**
{Tape: 3; Side: A; Approx. Time Count: 34.7}

HEARING ON HB 321

Opening Statement by Sponsor: **REP. MC CULLOCH** **EXHIBITS 8 and 9**
{Tape: 3; Side: A; Approx. Time Count: 39.7}

Proponents' Testimony:

SCOTT RESTVEDT, Valley Process Server
{Tape: 3; Side: A; Approx. Time Count: 42.6}

EARL ROWE, Bondsman
{Tape: 3; Side: A; Approx. Time Count: 44.0}

DEAN CROW, Valley Process Server
{Tape: 3; Side: B; Approx. Time Count: 0.1}

Questions From Committee Members and Responses:
{Tape: 3; Side: B; Approx. Time Count: 1.5 - 4.0}

Closing by Sponsor: **REP. MC CULLOCH**
{Tape: 3; Side: B; Approx. Time Count: 4.1}

HEARING ON HB 339

Opening Statement by Sponsor: **REP. BILL CAREY**
{Tape: 3; Side: B; Approx. Time Count: 4.7}

Proponents' Testimony:

HAROLD HANSER, State DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 7.7}

BRENDA NORDLAND, Department of Justice **EXHIBITS 10, 11 and 12**
{Tape: 3; Side: B; Approx. Time Count: 11.7}

DIANNE STANLEY, State DUI Task Force **EXHIBITS 13 and 14**
{Tape: 3; Side: B; Approx. Time Count: 16.3}

PATRICIA SAINDON, Department of Transportation
{Tape: 3; Side: B; Approx. Time Count: 18.0}

MIKE RUPERT, Boyd Andrew and DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 21.7}

LOU ANN HIMEL
{Tape: 3; Side: B; Approx. Time Count: 22.4}

MIKE COLLINS, DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 26.5}

KATHY COLLINS, DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 27.4}

KATHY MC GOWAN, Montana Addiction Services Provider
{Tape: 3; Side: B; Approx. Time Count: 29.5}

BRENDA NORDLAND, Department of Justice **EXHIBIT 15**

Questions From Committee Members and Responses:
{Tape: 3; Side: B; Approx. Time Count: 31.3 - 41.0.}

Closing by Sponsor: **REP. CAREY**
{Tape: 3; Side: B; Approx. Time Count: 41.4

EXECUTIVE ACTION ON HB 44

{Tape: 4; Side: A; Approx. Time Count: 0.1; Comments: Executive Action on HB 44 was resumed.}

Motion: **REP. ANDERSON moved the Department of Corrections Amendments**

Discussion:
{Tape: 4; Side: A; Approx. Time Count: 0.2 - 16.2}

Vote: The motion carried by unanimous voice vote.

Motion/Vote: **REP. BILL BOHARSKI moved HB 44 DO PASS AS AMENDED.** The motion carried 16 - 0. REP. ANDERSON voted aye by proxy.

EXECUTIVE ACTION ON SB 36

Motion/Vote: **REP. HURDLE moved SB 36 BE CONCURRED IN.** The motion carried 15 - 0.
{Tape: 4; Side: A; Approx. Time Count: 17.0}

EXECUTIVE ACTION ON HB 321

Motion: **REP. HURDLE moved HB 321 DO PASS.**

Discussion:
{Tape: 4; Side: A; Approx. Time Count: 18.4}

Vote: The motion carried 14 - 1, REP. BOHARSKI voting no.
{Tape: 4; Side: A; Approx. Time Count: 19.2; Comments: REPS. HANSON, ANDERSON, MOLNAR, SMITH and GRIMES were absent.}

EXECUTIVE ACTION ON HB 339

Motion: **REP. DIANE SANDS moved HB 339 DO PASS.**

Motion: **REP. MC GEE moved to amend HB 339 with an immediate effective date.**
{Tape: 4; Side: A; Approx. Time Count: 23.3}

Discussion:
{Tape: 4; Side: A; Approx. Time Count: 24.0 - 26.8}

Vote: The motion carried 14 - 1. REP. BOHARSKI voting no.

Motion/Vote: **REP. CHRIS AHNER moved HB 339 DO PASS AS AMENDED.** The motion carried 15 - 0.
{Tape: 4; Side: A; Approx. Time Count: 27.5}

EXECUTIVE ACTION ON HB 273

Motion: **REP. MC GEE moved HB 273 DO PASS.**

Motion/Vote: **REP. LOREN SOFT moved to table HB 273.** The motion carried 13 - 2, REPS. CURTISS and KOTTEL voting no.

EXECUTIVE ACTION ON HB 268

Motion: **REP. SANDS moved HB 268 DO PASS.**

Discussion:
{Tape: 4; Side: A; Approx. Time Count: Time count at the end of executive action in this meeting was not recorded.}

Vote: The motion carried 15 - 0.

Motion/Vote: **REP. SOFT moved to adjourn.** The motion carried by unanimous vote.

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE D. CRIPPEN**, on February 20, 1997, at 10:00 A.M., in Senate Judiciary Room, Room 325.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 321, 2/17
HB 215, 2/17
SB 374, 2/17
HB 239, 2/17

Executive Action: SB 96, HB 215, HB 321, HB 239

EXECUTIVE ACTION ON SB 96

Motion: **SEN. LORENTS GROSFIELD MOVED SB 96 BE TAKEN OFF THE TABLE.**

Discussion: **SEN. GROSFIELD** commented that a number of people who are interested in the issue have come forth and indicated that a voluntary system would be acceptable to them. They have worked on amendments. He explained that a letter had been provided to the committee. **EXHIBIT 1** The Attorney General sent this letter to people in and out of the industry which outlined a voluntary approach.

SEN. HARGROVE stated most of this bill is already in place. This deals with getting tough on welfare. We need to force the system to work.

HEARING ON HB 239

Sponsor: **REP. JOE TROPILA, HD 47, Great Falls**

Proponents: **None**

Opponents: **None**

Opening Statement by Sponsor:

{Tape: 2; Side: a; Approx. Time Count: 9:58; Comments: .}

REP. JOE TROPILA, HD 47, Great Falls, introduced HB 239 by request of the Secretary of State. This bill is a housekeeping matter. The only thing it adds is not allowing a notary to notarize his own signature. This is a common practice and has never been in statute.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. TROPILA closed on HB 239. He asked **SEN. DOHERTY** to carry the bill in the Senate if it was passed out of committee.

EXECUTIVE ACTION ON

Motion/Vote: **SEN. GROSFIELD MOVED HB 239 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.**

HEARING ON HB 321

Sponsor: **REP. LINDA MCCULLOCH, HD 70, Missoula**

Proponents: **Scott Resevett, Valley Process Service**
Dean Crow, Valley Process Service
Earl Rowe

Opponents: **None**

Opening Statement by Sponsor:

{Tape: 2; Side: a; Approx. Time Count: 10:04; Comments: .}

REP. LINDA MCCULLOCH, HD 70, Missoula, introduced HB 321 which is an act making it an offense to obstruct a person serving process.

This protects a variety of people who serve process and provides a responsibility to those person who need to have process served. Section 1 explains who serves process, defines a process server as a public servant and describes punishment.

Proponents' Testimony:

Scott Resevett, Valley Process Service, stated that sheriffs' departments are too busy to handle most process serving. They do not have uniforms or badges. They would like a little protection.

Dean Crow, Valley Process Service, rose in support of HB 321.

Earl Rowe rose in support of HB 321.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. MCCULOCH closed on HB 321.

EXECUTIVE ACTION ON HB 321

Motion/Vote: **SEN. ESTRADA MOVED HB 321 BE CONCURRED IN.** The **MOTION CARRIED UNANIMOUSLY.**

HEARING ON SB 215

Sponsor: **REP. SCOTT ORR, HD 82, Libby**

Proponents: **Bill Fleiner, Undersheriff, Lewis and Clark Co.**
Ralph DeKunso, Lewis and Clark Search and Rescue
Mike Batista, Department of Justice

Opponents: **None**

Opening Statement by Sponsor:

{Tape: 2; Side: A; Approx. Time Count: 10:08; Comments: .}

REP. SCOTT ORR, HD 82, Libby, introduced SB 215. This bill extends the protection afforded police dogs to include search and rescue dogs.

Proponents' Testimony:

Bill Fleiner, Undersheriff, Lewis and Clark County, explained that in criminal related activities most often a search and rescue dog may be the only dog available to the sheriff. The dog is always out first. He conducts the search and is a fair

HOUSE BILL NO. 321

INTRODUCED BY MCCULLOCH, BARNETT, MAHLUM

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NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

-END-